

Bradley M. Campbell, Commissioner
New Jersey Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, NJ 08625-0402

Dear Commissioner Campbell:

I am writing in response to your letter dated October 31, 2003 regarding the investigation of the Berry's Creek watershed. In your letter you reference discussions with Rohm and Haas and your office regarding an alternative model for investigating and remediating Berry's Creek. You also offered to take the lead in developing and piloting this program.

As you know, the Berry's Creek watershed contains three National Priorities List (NPL) sites: the Scientific Chemical Processing (SCP) site in Carlstadt; the Universal Oil Products (UOP) site in East Rutherford; and the Ventron/Velsicol site in Wood-Ridge/Carlstadt. The New Jersey Department of Environmental Protection (NJDEP) is the lead agency for the upland portions of the UOP and Ventron/Velsicol sites. The U.S. Environmental Protection Agency (EPA) is the lead agency for the SCP site. In the mid-1980s, NJDEP initiated studies to investigate Berry's Creek, as part of the Ventron/Velsicol site. The Ventron/Velsicol site is a primary source of the mercury contamination in Berry's Creek. In 1990, at NJDEP's request, EPA conducted a Potentially Responsible Party (PRP) search, which identified potential contaminant sources that included both NPL sites and non-NPL sites. Resource issues within NJDEP precluded the Department from pursuing the PRPs further.

In December 2001 EPA and NJDEP agreed to initiate a separate Berry's Creek study, with EPA as the lead agency. Using the findings from the 1990 PRP search, EPA identified a group of 15 to 20 PRPs for Berry's Creek, and requested information from about 100 other parties. Prior to issuing notice letters to these PRPs for performance of this study, EPA was approached by Rohm and Haas, the successor to the Ventron Corporation. Senior officials from EPA Region 2 met with representatives from Rohm and Haas in May and July of 2002 to discuss an alternative approach similar to the one outlined in your letter. In addition, Rohm and Haas requested that EPA delay issuance of

these notice letters. After lengthy discussions with Rohm and Hass, on September 30, 2002 EPA and Rohm and Haas's Morton International subsidiary signed an agreement for Morton to provide \$225,000 to EPA for development of a Work Plan to investigate, assess risks and evaluate remedial options for the Berry's Creek Study Area. In addition, by EPA not issuing notice letters immediately, the agreement provides Rohm and Haas an opportunity to seek alternatives to a Superfund study, if such alternatives exist. EPA anticipates completion of the Work Plan in approximately eight months. EPA's agreement with Morton provides the company with opportunities to meet with EPA during the Work Plan's development and provide comments on an early draft.

Therefore, we believe that further discussions are unnecessary at this time. EPA will proceed with the development of the Berry's Creek Study in accordance with our agreement with Morton.

If you have further questions regarding the Berry's Creek study, please feel free to contact me, or have your staff contact George Pavlou, the Director of the Emergency and Remedial Response Division at 212-637-4392.

Sincerely,

Jane M. Kenny
Regional Administrator